

SAR14811

**BEST AVAILABLE COPY**PATENT APPLICATION  
Serial No. 10/763,982**REMARKS**

Claims 1-22 and 24-29 are pending in the captioned Application in which claim 23 is cancelled, and claims 1-22 and 24-28 are allowed.

This amendment does not narrow the scope of any claim element or limitation and so is not limiting of any claim element or limitation, and Applicant reserves the right to the benefit of the doctrine of equivalents with respect thereto.

**Objections:**

The title is objected to and is amended to "INSTRUMENT HAVING A MULTIMODE OPTICAL ELEMENT AND METHOD" which is consistent with the instrument of claims 1 and 9 and with the method of claim 15, as well as with the storage medium of claim 22.

Withdrawal of the objection is solicited.

**Rejection Under 35 U.S.C. §112:**

Claim 23 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The rejection is moot in view of the cancellation of claim 23 and should be withdrawn.

**New Claim 29:**

Support for new claim 29 may be found, for example, in original claim 24. Claim 29 is patentable at least because it depends from allowed claim 22.

Entry and allowance of claim 29 is solicited.

**Conclusion:**

Applicant respectfully requests that the objection and rejection be withdrawn, and that the Application including claims 1-22 and 24-29 be allowed and passed to issuance.

The number of claims remaining being the same as or less than the number previously paid for, no fee is due in consequence of this timely filed response. However, should any fee

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be due in consequence of this response; please charge such fee and deposit any refund to Deposit Account 04-1406 of Dann, Dorfman, Herrell & Skillman.

The Examiner is requested to telephone the undersigned attorney if there is any question or if prosecution of this Application could be furthered by telephone.

Respectfully submitted,  
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By:   
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